

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 369 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

MOHMAD IQBAL ALIAS CHINO

MOHMAD HANIF QUARESHI

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for the Petitioner.

MR. HL JANI, AGP, for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 20/07/98

ORAL JUDGEMENT

The petitioner, who is detained by an order dated 9-1-98 passed by the Police Commissioner, Ahmedabad City, under Section 3 (1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"), has filed this petition under Article 226 of the Constitution of India challenging the legality and validity of the order of detention.

In the grounds of detention supplied to the petitioner, the detaining authority has placed reliance on one criminal case registered against the petitioner for offences punishable under Sections 307, 120B, 147, 148 and 149 of the IPC and Section 135(1) of the Bombay Police Act and section 25(1) of the Arms Act which is under investigation . Besides the said criminal case, further reliance is also placed on the statements of four witnesses whose identity was not disclosed to the petitioner in exercise of the privilege conferred on the detaining authority under Section 9(2) of the PASA Act. The said incidents took place on 21-12-97 and 27-12-97 wherein the concerned witnesses were alleged to have been beaten on the public road on their refusal to keep the calves in their huts, which were brought by them for cutting .

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true , the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type . Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also visited . The order of detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed. The

order of detention dated 9-1-98 is quashed and set aside.
The detenu Mohmad Iqbal @ Chino Mohmad Hanif Quarshi is
ordered to be released forthwith if not required in
connection with any other offence. Rule is made absolute
accordingly with no order as to costs. Writ to be sent
to Junagadh District Jail.

Verified copy